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EXAMINER

BADERMAN, SCOTT T

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,276

Applicant(s)

GRAY, PETER DANIEL

Examiner

Scott T. Baderman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-42, 60-66, 87-93, 110-116 and 120-122 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-42, 60-66, 87-93, 110-116 and 120-122 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 36-38, 40, 42, 60-62, 64, 66, 87-89, 91, 93, 110-112, 114, 116 and 120 are rejected under 35 U.S.C. 102(e) as being anticipated by Worley et al. (6,651,190).

As in claims 36, 37, 42, 87, 88 and 93, Worley discloses a system for remotely monitoring and controlling a computing device, said apparatus comprising one or more stages adapted to: (a) receive one or more first signals from a controlled computing device coupled to said apparatus (Abstract); (b) receive one or more second signals from a user over a network

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connection (Abstract); (c) transmit at least one of said one or more first signals to said user over said network connection (i.e., Worley teaches that by diagnosing problems, implies an error indicator/message could also be outputted) (Abstract, column 2: lines 30-37); and (d) transmit said one or more second signals to said controlled computing device (Abstract); wherein said apparatus is coupled to a relay, wherein said relay is coupled to both said controlled computing device and a power source for said controlled computing device, wherein said relay is moveable between a first position and a second position, wherein in said first position, said relay causes said power source to be coupled to said controlled computing device, wherein in said second position, said relay causes said power source to be decoupled from said controlled computing device, and wherein at least one of said one or more stages controls the movement of said relay between said first and second positions (i.e., the movement between the positions of the relay is interpreted as performing a reset (power down/up), wherein Worley clearly teaches that power is “toggled” to perform the reset) (Figure 3, Abstract). Worley further discloses a system wherein each of said first signals is selected from the set of: a video signal, and an output data signal (Figures 2 and 4, column 3: lines 27-32, column 5: lines 39-44, column 8: lines 55-64). Worley further discloses determining whether the output data signal comprises a prespecified string of characters (i.e., the microcontroller interacts with the host computer via a text mode (character based)), wherein an error indicator can be generated if the output signal comprises a prespecified string of characters (i.e., the microcontroller “monitors” the host system through interaction via a text mode (character based), wherein through this interaction, the microcontroller can determine whether a malfunction has occurred and the cause of the malfunction (column 4: lines 24-60, column 5: lines 32-54, column 8: lines 36-64)) - The Examiner takes the position that since the

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characters (when interacting via the text mode) point to a cause of a malfunction, that these characters can be properly interpreted as “prespecified string of characters.”

As in claims 38 and 89, Worley discloses a system further comprising a storage device, wherein said message comprises data for a log record for storing in said storage device (column 10: lines 17-33).

As in claims 40 and 91, Worley discloses a system wherein said apparatus is coupled to a network, and wherein said message is sent to a user through said network (Figure 3, Abstract, column 2: lines 30-37).

As in claims 60, 61, 66, 110, 111 and 116, Worley discloses a system for remotely monitoring and controlling a computing device, said apparatus comprising one or more stages adapted to: (a) receive one or more first signals from a controlled computing device coupled to said apparatus (Abstract); (b) receive one or more second signals from a user over a network connection (Abstract); (c) transmit at least one of said one or more first signals to said user over said network connection (i.e., Worley teaches that by diagnosing problems, implies an error indicator/message could also be outputted) (Abstract, column 2: lines 30-37); and (d) transmit said one or more second signals to said controlled computing device (Abstract); wherein said apparatus is coupled to a relay, wherein said relay is coupled to both said controlled computing device and a power source for said controlled computing device, wherein said relay is moveable between a first position and a second position, wherein in said first position, said relay causes

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said power source to be coupled to said controlled computing device, wherein in said second position, said relay causes said power source to be decoupled from said controlled computing device, and wherein at least one of said one or more stages controls the movement of said relay between said first and second positions (i.e., the movement between the positions of the relay is interpreted as performing a reset (power down/up), wherein Worley clearly teaches that power is “toggled” to perform the reset) (Figure 3, Abstract). Worley further discloses a system wherein said one or more stages are adapted to generate one or more test signals (e.g., a ping request), wherein said one or more test signals are transmitted to said controlled computing device and are used to determine if an error condition is present in said controlled computing device, and wherein said one or more first signals comprise signals that are generated by said controlled computing device in response to said one or more test signals (column 5: lines 55-67, column 8: lines 55-64, column 9: lines 14-50). Worley further discloses a system wherein said controlled computing device is a web server, wherein said one or more test signals comprise a request to retrieve a web page (by determining if the computer can address the network, which includes web servers, implies determining if a web page can be accessed as well), wherein said one or more stages are adapted to determine whether a web page was not successfully retrieved from said controlled computing device in response to said request to retrieve said web page, and wherein said one or more stages are further adapted to generate said error indicator if said web page was not successfully retrieved from said controlled computing device in response to said request to retrieve said web page (Figures 3 and 4, column 1: lines 13-24, column 5: lines 55-67).

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As in claims 62 and 112, Worley discloses a system further comprising a storage device, wherein said message comprises data for a log record for storing in said storage device (column 10: lines 17-33).

As in claims 64 and 114, Worley discloses a system wherein said apparatus is coupled to a network, and wherein said message is sent to a user through said network (Figure 3, Abstract, column 2: lines 30-37).

As in claim 120, Worley discloses a system for remotely monitoring and controlling a computing device, said apparatus comprising one or more stages adapted to: (a) receive one or more first signals from a controlled computing device coupled to said apparatus (Abstract); (b) receive one or more second signals from a user over a network connection (Abstract); (c) transmit at least one of said one or more first signals to said user over said network connection (i.e., Worley teaches that by diagnosing problems, implies an error indicator/message could also be outputted) (Abstract, column 2: lines 30-37); and (d) transmit said one or more second signals to said controlled computing device (Abstract); wherein said apparatus is coupled to a relay, wherein said relay is coupled to both said controlled computing device and a power source for said controlled computing device, wherein said relay is moveable between a first position and a second position, wherein in said first position, said relay causes said power source to be coupled to said controlled computing device, wherein in said second position, said relay causes said power source to be decoupled from said controlled computing device, and wherein at least one of said one or more stages controls the movement of said relay between said first and second

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positions (i.e., the movement between the positions of the relay is interpreted as performing a reset (power down/up), wherein Worley clearly teaches that power is “toggled” to perform the reset) (Figure 3, Abstract). Worley further discloses a system wherein said one or more stages are further adapted to receive signals from a plurality of users, and to transmit signals to a plurality of users (i.e., the term “technician” implies multiple users) (Abstract, column 1: lines 33-58).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 39, 41, 63, 65, 90, 92, 113 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worley et al. in view of McGregor et al. (6,243,574).

As in claims 39, 41, 63, 65, 90, 92, 113 and 115, Worley discloses the system above. However, Worley does not clearly disclose wherein said data comprises a date and a time that indicates when said error condition was determined, and wherein said message is an electronic mail message comprising details of said error condition. McGregor discloses a system wherein when errors are detected, the date and time of the error is recorded, and a technician is informed of the error via electronic mail (column 20: lines 41-56).

It would have been obvious to a person skilled in the art at the time the invention was made to include wherein said data comprises a date and a time that indicates when said error condition was determined, and wherein said message is an electronic mail message comprising details of said error condition into the system taught by Worley above. This would have been obvious because like McGregor, Worley also teaches of a system that reports errors to a remote technician, and further, McGregor teaches that by including details of an error, and informing a technician via electronic mail, is a useful feature (column 20: lines 41-56).

5. Claims 121 and 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worley et al. in view of Gill et al. (5,388,032).

As in claims 121 and 122, Worley discloses a system for remotely monitoring and controlling a computing device, said apparatus comprising one or more stages adapted to: (a) receive one or more first signals from a controlled computing device coupled to said apparatus (Abstract); (b) receive one or more second signals from a user over a network connection (Abstract); (c) transmit at least one of said one or more first signals to said user over said network connection (i.e., Worley teaches that by diagnosing problems, implies an error indicator/message could also be outputted) (Abstract, column 2: lines 30-37); and (d) transmit said one or more second signals to said controlled computing device (Abstract); wherein said apparatus is coupled to a relay, wherein said relay is coupled to both said controlled computing device and a power source for said controlled computing device, wherein said relay is moveable between a first position and a second position, wherein in said first position, said relay causes

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said power source to be coupled to said controlled computing device, wherein in said second position, said relay causes said power source to be decoupled from said controlled computing device, and wherein at least one of said one or more stages controls the movement of said relay between said first and second positions (i.e., the movement between the positions of the relay is interpreted as performing a reset (power down/up), wherein Worley clearly teaches that power is “toggled” to perform the reset) (Figure 3, Abstract). Worley further discloses a system wherein said one or more stages are further adapted to receive signals from a plurality of users, and to transmit signals to a plurality of users (i.e., the term “technician” implies multiple users) (Abstract, column 1: lines 33-58). However, Worley does not clearly disclose wherein said apparatus comprises a plurality of multiplexers, each of said plurality of multiplexers for coupling to a plurality of computing devices, wherein said plurality of multiplexers permits each of a plurality of users to select a controlled computing device to be monitored from said plurality of computing devices. Gill discloses a system for selecting and monitoring a plurality of computers (Abstract, column 4: line 53 – column 5: line 10). As for the teaching of a multiplexer that aids in the selection process, the Examiner takes the position that since Gill discloses that a user can select a computer to monitor via a keypad (column 4: line 53 – column 5: line 10), that the logic included within the keypad would encompass a multiplexer since multiplexers have been used for a long time in the art for performing selective operations.

It would have been obvious to a person skilled in the art at the time the invention was made to include a plurality of multiplexers, wherein each of said plurality of multiplexers are coupled to a plurality of computing devices, wherein said plurality of multiplexers permits each of a plurality of users to select a controlled computing device to be monitored from said plurality

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of computing devices into the system taught by Worley above. This would have been obvious because Gill teaches of a similar system as Worley in that both are concerned with monitoring computers from a remote location (see Gill, column 2: lines 50-63). Further, Gill teaches that it is important to enable a user to easily and flexibly select a computer for monitoring since this would provide an advantage in costs and time (column 4: lines 53-64). A person skilled in the art would have understood the advantages taught by Gill, and would have been motivated by these advantages to implement a similar system in to the system taught by Worley since Worley does imply that the computers being monitored therein are a plurality (column 1: lines 33-44).

Response to Arguments

6. Applicant's arguments filed March 22, 2005 have been fully considered but they are not persuasive.

With respect to claims 36-42 and 87-93, the Applicant is directed to the reasoning provided in the claim rejections of claims 36 and 87 above.

With respect to claims 60-66 and 110-116, the Applicant argues that Worley et al. (6,651,190) does not teach "where the computing device being monitored is a web server, and where a test is performed by requesting a retrieval of a web page from the web server." The Examiner respectfully disagrees. First, the argument that the web page resides on the computer device being monitored is moot since this is not claimed. Second, Worley does teach that the computer device being monitored could be a host server (e.g., web server) (column 5: lines 64-

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67). As for the argument that Worley only suggests that the computer device being monitored only “retrieves” a web page on the network, the Examiner does not agree with this assumption by the Applicant. Worley clearly teaches in column 1: lines 14-24 that it is important that web servers are monitored since the “information they contain” is critical. In column 5: line 64-67 of Worley, the teaching of “determining if the host server is able to address the network” is interpreted as the host server being able to communicate “its data (e.g., as a web page)” from itself to others on the network.

With respect to claim 120, the Applicant argues that Worley neither teaches nor suggests a system where multiple users can have access to the same computing device. The Applicant further argues that Worley does not suggest that there may be different remote technicians, each at a different remote site. The Examiner respectfully disagrees. First, the argument that each technician (user) is “at a different remote site” is moot since this is never claimed. What is claimed is that a plurality of users can monitor and control a computer device. Worley clearly teaches that companies will employ a technician to perform this type of monitoring (Abstract, column 1: lines 33-58). The Examiner took the position that “technician” could encompass a plurality of users since it is implied that Worley is not limiting the “technician” to be just one employee of a company.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott T. Baderman whose telephone number is (571) 272-3644. The examiner can normally be reached on Monday-Friday, 6:45 AM-4:15 PM, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Scott T Baderman
Primary Examiner
Art Unit 2113

STB